REMARKS

I. Status of Claims

Claims 1-46 and 48-61 were pending at the time of the Action. Claims 36, 37, 40, 46-54, 57, and 60 are canceled. Claims 33, 35, 38, 39, 41, 43-45, 55, and 58 are amended. Support for the claim amendments can be found at least in the claims as originally filed. No new matter has been added. Claims 33-35, 38, 39, 41-45, 55, 56, 58, 59, and 61 are currently under examination.

II. Rejections under 35 USC 102

Claims 33-36, 39, 41, and 42 are rejected as allegedly being anticipated by U.S. patent publication 2002/0132781 (the '781 publication). Claims 33-36, 39, 41, and 42 have been canceled or amended to include the limitation that the glutathione donor is GSNO. Thus, the '781 publication does not teach all elements of the currently pending claims. Applicants respectfully request the withdrawal of the rejection.

III. Rejections under 35 USC 103

The Action rejects claims 33-46 and 48-61 as allegedly being obvious in view of the '781 publication in light of (A) U.S. Patent 6,258,848 or U.S. patent publication 2003/0077335; or (B) U.S. patent publication 2003/0060502 or U.S. Patent 6,660,300.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As described above for the '781 publication, the cited combination of references do not describe all elements of the currently claimed invention, in particular the use of S-nitroglutathione (GSNO) for the treatment of diabetes. Applicants respectfully request the withdrawal of the rejection.

IV. Double Patenting rejection

Applicants respectfully request the double patenting rejection to be held in abeyance until allowable subject matter is identified.

V. Rejections under 35 USC 112, second paragraph

Claims 33-46 and 48-61 are rejected as allegedly being indefinite because of the recitation of HMG-CoA reductase inhibitor. Applicants have clarified these claims and deleted the terms related to HMG-CoA reductase inhibitor and included the term statins. Applicants respectfully request the withdrawal of the rejection.

VI. Conclusion

The Examiner is invited to contact the undersigned attorney at (512) 536-3167 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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